

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE  
ATHLETIC ASSOCIATION STUDENT-  
ATHLETE CONCUSSION LITIGATION**

MDL NO. 2492

Master Docket No. 13-cv-09116

Judge John Z. Lee

Magistrate Judge Geraldine Soat  
Brown

**SETTLEMENT CLASS REPRESENTATIVES' RENEWED MOTION TO ADD NON-  
CONTACT SPORTS PLAINTIFFS AND CLASS REPRESENTATIVES**

Plaintiffs Adrian Arrington, Derek Owens, Kyle Solomon, Angela Palacios, Abram Robert Wolf, Sean Sweeney, Jim O’Conner, Dan Ahern, Paul Morgan, Jeffrey Caldwell, John DuRocher, and Sharron Washington (collectively, the “Settlement Class Representatives”), on behalf of themselves and as representatives of the Settlement Class, for their Renewed Motion to Add Non-Contact Sports Plaintiffs And Class Representatives Shelby Williams, Bruce Sheeder, Shavaughne Desecki, Spencer Trautmann, Ryan Parks, Ursula Kunhardt, and Jessica Miller (collectively, the “Proposed Class Representatives”) state as follows:

During the October 23, 2014 hearing on the Motion for Preliminary Approval of the Amended Settlement Agreement (“Settlement”), the Court inquired: “[C]an the current class representatives adequately represent the interests of those who played non-contact sports when it comes to the terms that are set forth in this settlement?”<sup>1</sup> During the November 18, 2014 hearing on the Motion to Add Non-Contact Sports Plaintiffs, the Court requested Plaintiffs: (1) to obtain “the thoughts of various class representatives along the spectrum of both sports and time period

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<sup>1</sup> See Transcript of Proceedings – Motion Before the Honorable John Z. Lee, Oct. 23, 2014 (“Oct. 23, 2014 Transcript of Proceedings”), Ex. B, at 9.

to some extent, and whether or not they would approve of the overall settlement ...”;<sup>2</sup> (2) “to make sure that whoever the additional class members are, that they have a meaningful opportunity to sit down with Judge Andersen and the parties and ask whatever questions they have”;<sup>3</sup> (3) “to the extent there is a continuum [of concussions among non-contact sports] ... to make sure that whoever the additional class representatives are adequately represent that continuum”;<sup>4</sup> and (4) to have the expert “team take another look at their work to make sure that they have the most relevant data to adequately calculate participation rate.”<sup>5</sup>

We have taken these steps requested by the Court. As reflected below, we (1) obtained the thoughts of current and former student athletes in the non-contact sports of baseball, softball, volleyball, golf, and track and field;<sup>6/7</sup> (2) each of the Proposed Class Representatives had a meaningful opportunity to review the Amended Settlement and to engage in conversation with Judge Andersen;<sup>8</sup> (3) the Proposed Class Representatives represent both the three non-contact sports (*i.e.*, baseball, softball, and volleyball) that have the “highest” rate of concussions among the non-contact sports, as well as two non-contact sports (*i.e.*, golf and track and field) that represent the majority of non-contact sports because they generally reflect zero incidences of

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<sup>2</sup> See Transcript of Proceedings – Motion Before the Honorable John Z. Lee, Nov. 18, 2014 (“Nov. 18, 2014 Transcript of Proceedings”), Ex. C, at 10-11.

<sup>3</sup> *Id.*, at 13.

<sup>4</sup> *Id.*, at 8.

<sup>5</sup> *Id.*, at 11.

<sup>6</sup> Attached as Ex. K is a list of NCAA-sanctioned sports included in the Settlement.

<sup>7</sup> See Declaration of Shelby Williams (“Williams Decl.”), Ex. D; Declaration of Brice Sheeder (“Sheeder Decl.”), Ex. E; Declaration of Shavaugne Desecki (“Desecki Decl.”), Ex. F; Declaration of Spencer Trautmann (“Trautmann Decl.”), Ex. G; Declaration of Ryan Parks (“Parks Decl.”), Ex. H; Declaration of Ursula Kunhardt (“Kunhardt Decl.”), Ex. I; Declaration of Jessica Miller (“Miller Decl.”), Ex. J.

<sup>8</sup> See Declaration of Hon. Wayne R. Andersen (Ret.), Ex. A.

concussions;<sup>9</sup> and (4) Mr. Deal has analyzed the data and concluded that, even by including the concussion rates for non-Contact Sports, the Medical Monitoring Fund is adequate.<sup>10</sup>

As reflected more fully in the accompanying memorandum, the Proposed Class Representatives have reviewed, understand, and support the Settlement from the perspective of student-athletes who play or played a sport that is not defined as a Contact Sport in the Settlement.<sup>11</sup> The unanimous support of the Settlement demonstrates that there is no conflict between Settlement Class members who participated in Contact Sports and those who participated in non-contact sports. Rather, the Settlement Class shares a single goal regardless of sport – to obtain access to the Medical Monitoring Program in the Settlement and to obtain necessary changes to the NCAA’s concussion-management and return-to-play guidelines to protect student-athletes in the future.

Therefore, the request should be granted for three reasons: (1) the Proposed Class Representatives are typical and they will fairly and adequately protect the Settlement Class including current and former student-athletes who played non-contact sports; (2) the rights of and benefits for non-contact sports Settlement Class Members are at risk; and (3) the denial of the right to add the Proposed Class Representatives would prejudice non-contact sports Settlement Class Members.

WHEREFORE, Plaintiffs respectfully request that the Court grant the motion to add Shelby Williams, Bruce Sheeder, Shavaughne Desecki, Spencer Trautmann, Ryan Parks, Ursula

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<sup>9</sup> See Exhibits 1 - 5 attached to the Declaration of Steve W. Berman in Support of Renewed Motion to Add Non-Contact Sports Plaintiffs and Class Representatives, filed contemporaneously herewith.

<sup>10</sup> See Expert Report of Bruce Deal Regarding the Medical Monitoring Fund, Supplementary Report: Non-Contact Sports (“Deal Rep.”), Ex. L.

<sup>11</sup> See Declaration of Judge Wayne R. Andersen (ret.) (“Andersen Decl.”), Ex. A.

Kunhardt, and Jessica Miller as additional class representatives, and grant such other and further relief as this Court deems appropriate.

Date: December 15, 2014

Respectfully submitted,

By: /s/ Steve W. Berman

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### **CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on December 15, 2014, a true and correct copy of the foregoing was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record.

By: /s/ Steve W. Berman